



W.P.(MD) No.16387 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.16387 of 2021

and

W.M.P.(MD) Nos.13281 and 13285 of 2021 and 21101 of 2023

Kodichandrasekar

... Petitioner

/vs./

- 1.The District Collector,
Madurai District,
Madurai 625 020.
- 2.The Superintendent of Police,
Surveyor Colony,
Madurai 625 007.
- 3.The Revenue Divisional Officer,
Thirumangalam,
Madurai District.
- 4.The Executive Magistrate cum Tahsildar,
Thirumangalam Taluk,
Madurai District.
- 5.The Deputy Superintendent of Police,
Usilampatti,
Madurai District.



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6.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Madurai.

7.The Inspector of Police,
Chekkanoorani Police Station,
Chekkanoorani,
Madurai District.

8.Kamala

9.Muthaiah Poojari

10.The Fit Person,
Arulmighu Karuppanasamy Temple,
A.Kokkulam,
Thirumangalam Taluk,
Madurai District.

*(R10 has been impleaded vide
order dated 04.04.2024)*

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records pertaining to the Impugned Order passed by the 4th respondent vide his Proceeding in Na.Ka.No. 1645/2021/A2, dated 30.07.2021 declaring the Petitioner's Pangalies Temple namely Peikaman Karuppasamy Temple at Kokkulam Village, Thirumangalam Taluk, Madurai District as Public temple and quash the same as illegal and for other reliefs.

For Petitioner : Mr.J.Lawrance



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For R1, R3 & R4 : Mr.S.P.Maharajan
Special Government Pleader

For R2, R5 & R7 : Mr.A.Albert James
Government Advocate

For R6 : Mr.P.Subbaraj
Special Government Pleader

For R8 : Mr.Mahaboob Fazil for
Mr.S.Rajasekar

For R9 : No appearance

For R10 : Mr.C.Guhaseelarupan

ORDER

In this Writ Petition, the petitioner has challenged the impugned order dated 30.07.2021 passed by the fourth respondent in his proceedings bearing reference in Na.Ka.No.1645/2021/A2, declaring the subject Temple namely, Arulmigu Peikaman Karuppasamy Temple at A.Kokkulam Village, Thirumangalam Taluk, Madurai District as a Public Temple.

2.The above said order was passed by the fourth respondent pursuant to the order passed by this Court on 27.04.2021 in W.P.(MD)No. 8567 of 2021. The



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said Writ Petition was filed by the eighth respondent herein. The said Writ Petition was filed for the following relief:-

"To issue a Writ of Mandamus, directing the respondents 1 to 4 to enable the petitioner and members of her community people to enter into the Pekkaman Karuppasamy Temple, Thirumangalam Taluk, Madurai District and consequently directing the respondents 1 to 4 to allow the Scheduled Caste people to worship the temple within the time period stipulated by this Court."

3.In this background, the impugned order has been passed by the fourth respondent. The relevant portion of the impugned order reads as under:-

"மனுதாரர் மற்றும் எதிர்மனுதாரர் தரப்பு வாக்கு மூலங்கள் பரிசீலிக்கப்பட்டது. இவ்வழக்கின் எதிர் மனுதாரர் தரப்பில் மேற்படி கோவில் அவர்களது சமூகத்திற்கு மட்டும் சொந்தமான கோவில் என்பதற்கான ஆவண ஆதாரம் ஏதும் நாளது தேதி வரை தாக்கல் செய்யாதிருக்கும் நிலையில், திருமங்கலம் வட்டம், ஆ.கொக்குளம் அருள்மிகு கருப்பணசாமி திருக்கோயில், அதாவது பேக்காமன் கருப்பசாமி கோயில் என பொதுமக்களால் ஆ.கொக்குளம் கிராமத்தில் அழைக்கப்படும் கோயில், கோயில் புறம்புகலான புல எண் 78இல் அமைந்துள்ள கோயில், இந்து சமய அறநிலையத்துறை கட்டுப்பாட்டில், மதுரை உதவிஆணையரின் ஆளுகைக்குட்பட்ட ஒரு திருக்கோயில் மேலும் இந்து சமய அறநிலையத்துறை கட்டுப்பாட்டில் உள்ள கோயில் என்பது இந்துசமய அறிநிலையத்துறை சட்டம் 22/1959ல் சட்டப்பிரிவு 6(20)ல் பொதுமக்கள் வழிபடும் இடம், அதாவது, அனைத்து சமூகத்தினரின் வழிபாட்டுக்குரியது.

இந்நிலையில், சென்னை உயர்நீதிமன்ற



மதுரைக்கிளையின் தீர்ப்புரையின் வழிகாட்டுதல்களின்படி, மேற்படி கோயில் அரசு புறம்புகல் நிலத்தில் அரசு இந்துசமய நிலையத்துறையின் கட்டுப்பாட்டின் கீழ் உள்ளதாலும், அருள்மிகு கருப்பணசாமி திருக்கோயில் பொருத்தவரை இதுவரை பக்தர்கள் தரிசனம் செய்வதற்கு எந்தவித கட்டுப்பாடுகளும் விதித்து அறநிலையத் துறையால் உத்தரவு ஏதும் பிறப்பிக்கப்படவில்லை என தெரிவித்துள்ளதாலும், இந்து கோயில் என்பது இந்துசமய அறநிலையத்துறை சட்டம் 22/1959ல் பிரிவு 6(20)ல் பொதுமக்கள் வழிபடும் இடம் என்பதால், அனைத்து தரப்பினரும் கோவிலில் செய்வதை உறுதிப்படுத்திட மதுரை, இந்துசமய அறநிலையத்துறை உதவி ஆணையர் கேட்டுக்கொள்ளப்படுகிறார்.

தற்பொழுது கொரோனா நோய் தொற்று பரவல் காரணமாக தளர்வுகளுடன் கூடிய அரசு ஊரடங்கு அமலில் இருந்து வருகிறது என்பதால் கோவில்களில் திருவிழா நடத்தவோ, கூட்டமாக சென்று வழிபடவோ அனுமதிக்க வழிவகையில்லை. தனி நபர்களாக சென்று அரசு அறிவித்துள்ள நிலையான வழிகாட்டு நெறிமுறைகளை பின்பற்றி மட்டுமே கோவில் வழிபாடுகள் செய்ய அனுமதிக்கப்பட்டுள்ளது என்ற விவரம் தெரிவிக்கப்படுகிறது.

மேலும், மேற்படி வழிபாட்டு முறையினை செயல்படுத்துவதில் சட்டம் ஒழுங்கு பிரச்சனை ஏற்படாத வண்ணம் உரிய பாதுகாப்பு நடைமுறைகளைப் பின்பற்ற காவல் துறையினர் கேட்டுக் கொள்ளப்படுகிறார்கள்."

4.The said Writ Petition was disposed of by an order dated 27.04.2021 with the following observation:-

"6.In any event, this issue cannot be resolved in a writ petition. Therefore, we direct the third respondent to consider the petitioner's representation and examine as to



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whether there is any genuineness in the claim of the petitioner and what was the issue which has precipitated the problem and make every endeavour to resolve the controversies and put an end to the issue. This direction be complied with by the third respondent, within a period of twelve [12] weeks from the date of receipt of a copy of this order. Since no positive direction is issued against the sixth and seventh respondents, while examining the representation of the petitioner, the Tahsildar, Thirumangalam Taluk, shall issue notice to the sixth and seventh respondents and also to the writ petitioner."

5.The learned counsel for the petitioner would submit that the subject Temple is located on a land measuring an extent of 8 Acres, which belongs to the petitioner's ancestors and that the said Temple was a private Temple of the petitioner's family members and that the Temple was developed by the petitioner's family members.

6.It is further submitted that presently, the land has been classified as a Natham Poramboke. Though it has been treated as a personal land of the petitioner and the Temple is under the control and management of the family members of the petitioner and the Temple was not used as of right by the other Hindu Community or segment of the petitioner's Piramalai Kallar Community.



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7.It is submitted that the Temple is neither a public Temple nor a Math as defined in Tamil Nadu Hindu Religious Charitable and Endowments Act, 1959 [hereinafter referred to as "the H.R. & C.E. Act"] and therefore, the impugned order is liable to be quashed.

8.It is further submitted that initially, the Priamalai Kallar Community people settled at 8 Villages called as "Nadu". The said Villages are, (1) Valandur, (2) Thidiyan, (3) Puthur, (4) Pappapatti, (5) Karumathur, (6) A.Kokkulam, (7) Veppanoothu, and (8) Thummagundu. Each Village consists of some hamlets numbering 24, the petitioner's Village namely, A.Kokkulam Village called as "6th Nadu". The petitioner's 6 Pangalis Vagaiyarah pre-dominantly residing in A.Kokkulam Village and K.Paraipatti, K.P.Othapatti, Sikkampatti, Thengalpatti and Iyyampatti. The petitioner and his family members have been worshipping Peikaman Karuppasamy as their family deity. Similarly, the other segments of Priamalai Kallar Community belonged to the above said 7 Villages and its hamlets (Nadu) have also been worshipping their own family deity from time immemorial.



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9.It is further submitted that all along the rituals were conducted only by the petitioner's Pangalis and that the Poojaris for the Temple were selected from Veriya Thevar Vagaiyarah and that he was performing the rituals in the Temple.

10.It is further submitted that the eighth respondent is a resident of S.Alankulam, Madurai North Taluk, Madurai District and is residing there only since 2000 and an acting Member of a particular political party and she has no faith and she has nothing to do with the subject Temple, however, filed W.P. (MD)No.8567 of 2021 and had secured an order from this Court.

11.It is further submitted that the said Writ Petition itself was filed by a person inimical to the petitioner though the petitioner and his family members have not indulged in any untouchability. That apart, it is submitted that the said Temple as family deity of the Pangalis of the petitioner and therefore, the impugned order treating the said Temple as a public Temple within the control of the H.R. & C.E. Department is liable to be interfered with.



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12. Opposing the prayer, the learned Special Government Pleader for the fourth respondent would submit that the dispute pertains to the petitioner's family and his co-sharers. The said Temple is situated in a Government Poramboke land and the said Temple was worshipped by the people of various community in and around A.Kokkulam Village. The contention of the petitioner that his ancestors donated 8 Acres of land for the Temple is baseless.

13. It is submitted that impugned order has been passed pursuant to the directions of this Court. It is further submitted that from the enquiry, it was found that the Temple in dispute was worshipped by persons of various community for a long period of time and every year, around 50,000 people from various community will gather and participate in the Temple festivals.

14. It is further submitted that during enquiry, the petitioner had also participated and claimed that the above Temple belongs to 6 co-sharers, who are his ancestors. However, the petitioner has not produced any document to substantiate the same.



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15.It is further submitted that a clarification was called for from the sixth respondent namely, the Assistant Commissioner of H.R. & C.E. Department, Madurai, and that the sixth respondent in turn clarified that Arulmigu Karuppanna Samy Thirukovil, which is called by the Villagers as Arulmigu Pekkaman Karuppasamy Temple was under the control of the H.R. & C.E. Department. It is therefore submitted that the Writ Petition is liable to be dismissed.

16.That apart, it is submitted that entry to the Temple cannot be denied to any person although they belong to different community. It is therefore, submitted that the Writ Petition deserves to be dismissed.

17.The learned counsel for the 10th respondent would submit that the 10th respondent has taken control of the Temple pursuant to the directions of the sixth respondent on 29.07.2021.

18.The learned counsel for the 10th respondent would further submit that the prayer in the Writ Petition for quashing the order of the fourth respondent



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declaring the subject Temple as a public Temple cannot be countenanced, as the Temple attracts devotees of different communities. In this connection, a reference is made to Section 6(20) of the H.R. & C.E. Act. It is further submitted that in the light of the above, there cannot be any deviation in the finding rendered by the fourth respondent in the impugned order.

19. That apart, the learned Special Government Pleader for the official respondents would submit that the petitioner has no records to substantiate that the Temple is a denominational Temple. It is submitted that in case, the petitioner wants an exclusive right, it is for him to work out his remedy in the manner known to law either by filing a Petition under Section 63(a) of the H.R. & C.E. Act or by filing a Civil Suit before the competent Court of jurisdiction. Hence, it is submitted that the Writ Petition is liable to be dismissed.

20. The learned Special Government Pleader for the respondents 1, 3 and 4 would submit that there is no dispute that the subject temple is a religious institution within the meaning of Section 6(20) of the HR & CE Act, 1959. He would draw attention to Section 1 of the HR & CE Act, 1959 to state that the Act



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applies to all the Hindu Public Religious Institutions and Endowments including the incorporated Devasam and unincorporated Devasam.

21.It is therefore submitted that the petitioner cannot argue that the subject temple cannot come within the purview of the HR & CE Department. That apart, he would submit that the impugned order has merely exhorted the Officials under the HR & CE Department to take control of the temple.

22.The learned Special Government Pleader for the sixth respondent would submit that the temple in question is a public temple, as it attracts the devotees from different communities in the region. There is no impediment from the HR & CE Department to administer the affairs of the temple. He further submitted that as a matter of fact, the 10th respondent was appointed on 29.07.2021.

23.The learned counsel for the 10th respondent would submit that the impugned order itself makes it clear that the temple is possessed of several properties in different survey numbers as detailed below:



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வ.எண்	புல.எண்	வகைப்பாடு	பாப்பு நஞ்சை	பரப்பு புஞ்சை	பட்டா எண்	பட்டாதாரர்
1	77/7	இரயத்து நஞ்சை	0.47.5		113	அருள்மிகு கருப்பணசுவாமி கோவில்
2	96/4	இரயத்து நஞ்சை	0.57.5		113	அருள்மிகு கருப்பணசுவாமி கோவில்
3	135/2	இரயத்து புஞ்சை		0.29.0	113	அருள்மிகு கருப்பணசுவாமி கோவில்
4	135/3A	இரயத்து புஞ்சை		0.05.5	113	அருள்மிகு கருப்பணசுவாமி கோவில்
5	163A/2	இரயத்து புஞ்சை		0.35.5	113	அருள்மிகு கருப்பணசுவாமி கோவில்
6	163B/2	இரயத்து புஞ்சை		0.32.5	113	அருள்மிகு கருப்பணசுவாமி கோவில்
		மொத்தம்	1.05.0	1.02.5		

24.It is further submitted that it is not open for the petitioner to state that the temple is a private temple.



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25. That apart, it is submitted that the petitioner was also called upon to furnish documents to substantiate that the temple is located in S.No.78, measuring an extent of 0.30.5 ares belongs to the petitioner or his predecessor or the community in general.

26. It is submitted that the land in question has been classified as Government Poramboke, although the learned counsel for the petitioner would submit that the land in question is classified as Natham Poramboke.

27. On a specific query to the learned counsel for the petitioner as to whether any parallel proceeding has been initiated by the petitioner to declare that the aforesaid temple is a private temple, the learned counsel for the petitioner admitted today that the petitioner has filed O.S.No.148 of 2021 before the District Munsif Court, Thirumangalam on 29.07.2021, which is few weeks before filing of the present writ petition.

28. Therefore, in my view, the present writ petition does not have any merits insofar as it directs the sixth respondent to take control of the temple. As a matter



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of fact, the sixth respondent has also appointed the tenth respondent as Fit Person on 29.07.2021.

29.The remedy of the petitioner lies elsewhere against the appointment of the Fit Person, namely the 10th respondent and to declare that the temple is a private temple of the petitioner or the community in general.

30.Under these circumstances, the present Writ Petition stands dismissed with liberty to the petitioner to challenge the appointment of the Fit Person in the manner known to law and to pursue the remedy in O.S.No.148 of 2021. The continuance of the impugned order and the appointment of the Fit Person otherwise will be subject to the judgment and decree to be passed in O.S.No.148 of 2021 filed by the petitioner before the District Munsif Court, Thirumangalam. It is made clear that the petitioner shall implead all the Official respondents herein in the said suit for the favourable judgment and decree to be binding on the respondents herein. No costs. Consequently, connected Miscellaneous Petitions are closed.



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- 2.The Superintendent of Police,
Surveyor Colony,
Madurai 625 007.
- 3.The Revenue Divisional Officer,
Thirumangalam,
Madurai District.
- 4.The Executive Magistrate cum Tahsildar,
Thirumangalam Taluk,
Madurai District.
- 5.The Deputy Superintendent of Police,
Usilampatti,
Madurai Distric.
- 6.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Madurai.
- 7.The Inspector of Police,
Chekkanoorani Police Station,

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